

RESPONSE

I. Restriction Requirement

The Examiner has determined that the original claims are directed to twenty three separate and distinct inventions under 35 U.S.C. § 121, as follows (typographical errors have been omitted):

Group I: Claims 1-3, drawn to nucleic acids encoding SEQ ID NO:4 or hybridizable to SEQ ID NO:3, classified in 536 subclass 23.5+, for example.

Group II: Claims 1 and 4, drawn to nucleic acids encoding SEQ ID NO:2, classified in 536 subclass 23.5+, for example.

Group III: Claims 1 and 5, drawn to nucleic acids encoding SEQ ID NO:12, classified in 536 subclass 23.5+, for example.

Group IV: Claims 1 and 6-7, drawn to nucleic acids encoding SEQ ID NO:29 or hybridizable to SEQ ID NO:28, classified in 536 subclass 23.5+, for example.

Group V: Claims 1 and 8, drawn to nucleic acids encoding SEQ ID NO:33, classified in 536 subclass 23.5+, for example.

Group VI: Claims 1 and 9, drawn to nucleic acids encoding SEQ ID NO:25, classified in 536 subclass 23.5+, for example.

Groups VII-XXIII. Claim 1, drawn to nucleic acids encoding SEQ ID NO:6 (VII) or SEQ ID NO:8 (VIII) or SEQ ID NO:10 (IX) or SEQ ID NO:14 (X) or SEQ ID NO:16 (XI) or SEQ ID NO:19 (XII) or SEQ ID NO:21 (XIII) or SEQ ID NO:23 (XIV) or SEQ ID NO:27 (XV) or SEQ ID NO:31 (XVI) or SEQ ID NO:35 (XVII) or SEQ ID NO:37 (XVIII) or SEQ ID NO:39 (XIX)

or SEQ ID NO:41 (XX) or SEQ ID NO:43 (XXI) or SEQ ID NO:45 (XXII) or SEQ ID NO:49 (XXIII), classified in 536 subclass 23.5+, for example.

II. Response to Restriction Requirement

In response to the Restriction Requirement mailed September 29, 2003 (Paper No. 8), Applicants respectfully request reconsideration of this requirement based on the fact that the amino acid sequences described in SEQ ID NO: 4 and SEQ ID NO: 2, are encoded by a common genetic locus and share almost identical sequence and are therefore not independent.

In support of this position, Applicants invite the Examiner's attention to Exhibit A which contains the results of an amino acid comparison between SEQ ID NO:4 and SEQ ID NO:2 of the present invention. From this comparison it can be seen that SEQ ID NO:4 and SEQ ID NO:2 share 99.904% identity over almost the entire length of SEQ ID NO:2. Therefore, clearly SEQ ID NO: 4 and SEQ ID NO: 2 represent variants of the same gene.

In the alternative, Applicants provisionally elect with traverse to prosecute the claims of Group I, claims 1-3, drawn to nucleic acids encoding SEQ ID NO:4 or hybridizable to SEQ ID NO:3, classified in 536 subclass 23.5+, for example. Applicants further elect, pursuant to 35 U.S.C. § 121, the species of SEQ ID NO: 4 for initial examination on the merits. Elected claims 1, 2 and 3 read on the elected species. Applicants understand their species election is being made solely to expedite examination of the application, and that they are entitled to consideration of additional species upon allowance of a generic claim. Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

III. Status of the Claims

Claims 1 and 5-9 have been cancelled, entirely without prejudice and without disclaimer. New claims 10 and 11 have been added to better claim the present invention. Claims 2-4, 10 and 11 are therefore pending.

IV. Support for the Claims

Claim 10 has been added to better claim the present invention. New Claim 10 is supported

by the specification as originally filed with particular support being found on or about page 13 lines 24-30.

Claim 11 has been added to better claim the present invention. New Claim 11 is supported by the specification as originally filed with particular support being found on or about page 13, line 30 through page 14, line 3.

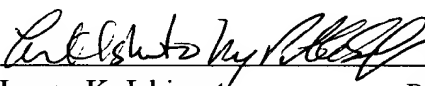
As new claims 10 and 11 are fully supported by the specification, sequence listing and claims as originally filed, they do not does not constitute new matter. Entry is therefore respectfully requested.

V. Conclusion

The present document is a complete response to the Restriction and Species Election Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should Examiner Gucker have any questions or comments, or believe that certain amendments of the claims might serve to improve their clarity, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

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Date


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